

REMARKS

The drawings are objected to under 37 CFR 1.83(a). Claims 1 and 13 stand rejected under 35 U.S.C. § 112, second paragraph for insufficient antecedent basis. Claims 1-6, 8-16, and 18-20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent Number 6,714,952 to Dunham et al. (hereinafter “Dunham”). Claims 7 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dunham in view of Derek Gamradt, “Backup without disruption: LAN-free, server-free SAN backup avoids disrupting business” (hereinafter “Gamradt”).

For the Examiner’s convenience and reference, Applicants’ remarks are presented in substantially the same order in which the corresponding issues were raised in the Office Action. Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references.

Applicants wish to thank the Examiner for the telephone interview of April 17, 2006. Per the interview, Applicants have amended claims 1, 5, 7, 8, 10-13, 15, 17, 18, and 20 to more particularly point out and distinctly claim the subject matter of the claimed invention. The amendments are fully supported by the specification. Claims 4 and 14 are canceled.

Response to objections to drawings.

The drawings are objected to under 37 CFR 1.83(a). Applicants traverse the objection.

“In establishing a disclosure, applicant may rely not only on the description and drawing as filed but also on the original claims if their content justifies it.

Where subject matter not shown in the drawing or described in the description is claimed in the application as filed, and such original claim itself constitutes a clear disclosure of this subject matter, then the claim should be treated on its merits, and requirement made to amend the drawing and description to show this subject matter. The claim should not be attacked either by objection or rejection because this subject matter is lacking in the drawing and description. It is the drawing and description that are defective, not the claim.” MPEP § 608.01(I)

Applicants have submitted replacement sheets with amendments to FIG. 1 and new FIGS. 3 - 5. In addition, Applicants have amended the paragraph beginning on line 69 of page 3 of the brief description to include the added Figures.

The amendment to FIG. 1 indicates LAN-free, server-free paths 140 and 142 as referred to in the specification. Page 6, Lines 132-133. Applicants have also amended the specification paragraph beginning on line 129 of page 6 to reference the LAN-free, server-free paths 140, 142 of FIG. 1. Applicants submit the amendments clarify the specification and drawings without entering new material.

Applicants have added FIGS. 3 and 4 with flowcharts illustrating the method of the embodiment of the present invention. The amendments are well supported by the specification,

which teaches "...requesting a restore wherein each of the plurality of client systems may participate in the restore; and coordinating access to the data stored in the storage pool by tracking a plurality of data portions of the data to be restored and by blocking access to each of the plurality of data portions that have been restored by one of the plurality of client systems to avoid duplicative restoration efforts." Page 3, Lines 50-54. The specification further discloses "...the server 102 constructs a master restore table associated with that particular restore request." Page 5, Lines 111-112.

In addition, Applicants have amended the paragraph beginning on line 110 of page 5, the paragraph beginning on line 116 of page 6, the paragraph beginning on line 121 of page 6, and the paragraph beginning on line 129 of page 6 to appropriately reference FIGS. 3 and 4. Applicants submit the amendments clarify the specification and drawings without entering new material.

Applicants have added FIG. 5 to illustrate the token 500 as described in the specification. Page 7, Line 160 – Page 8, Line 162. In addition, Applicants have amended the paragraph beginning on line 160 of page 7 to appropriately reference the token 500. Applicants submit the amendments clarify the specification and drawings without entering new material.

Applicants assert that the identification of the LAN-free, server-free paths 140, 142, the addition of the flow charts 300, 310 of FIGS. 3 and 4, and the addition of the token drawing 500 of Figure 5 cure the objections to the drawings under 37 CFR 1.83(a) relating to the LAN-free, server-free path and insufficient support for the method claims.

Response to rejections of claims under 35 U.S.C. § 112 second paragraph.

Claims 1 and 13 stand rejected under 35 U.S.C. § 112 second paragraph as being indefinite. Claims 1 and 13 are amended so that “said data” now reads as “data.” Applicants submit that the amendments cure the insufficient antecedent basis of claims 1 and 13.

Response to rejections of claims under 35 U.S.C. § 102.

Claims 1-6, 8-16, and 18-20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Dunham. Applicants respectfully traverse this rejection.

Independent claims 1 and 13 are amended with the limitations “...coordinating restoration of data stored in said storage pool using a storage management server that constructs a master restore table comprising a plurality of data portions to be restored and an associated location of said plurality of data portions in said storage pool, tracks said plurality of data portions of said data as restored by said plurality of client systems, and blocks access to each of said plurality of data portions that have been restored by one of said plurality of client systems to avoid duplicative restoration efforts.” Claim 1 as amended. See also claim 13 as amended.

The amendment is well supported by the specification. In particular, original claim 13 discloses the storage management server and original claims 4 and 14 disclose the master restore table. In addition, the specification discloses the plurality of client systems restoring the data. Page 6, Lines 116-120.

Thus the embodiment of the present invention claims the storage management server coordinating the plurality of client systems restoring the data, with the storage management server employing a master restore table to track data portions and blocking restoration of restored data portions. In contrast, Dunham teaches determining a target file system for a data file that is to be restored and copying the data file to the target system and applying a metadata file specific to the data file and the file system. Dunham, Col. 10, Lines 11-59. Thus Dunham teaches the restoration of data to one of a plurality of different file systems. Dunham, Abstract. However, Dunham does not teach a storage management server coordinating the restoration of data by a plurality of client systems using a master restore table and blocking access to restored data portions as claimed by the embodiment of the present invention. Applicants therefore assert that claims 1 and 13 are allowable as Dunham does not disclose each element of the claims.

Claims 4 and 14 are canceled. Dependent claims 5, 8, 10-12, 15, 18 and 20 are amended to depend from pending claims. Applicants have not specifically traversed the rejections of dependent claims 2, 3, 5, 6, 8-12, 15-16, and 18-20 under 35 U.S.C. 102(e), but believe those claims to be allowable for depending from allowable claims. See, *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Response to rejections of claims under 35 U.S.C. § 103(a)

Claims 7 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dunham in view of Gamradt. Claims 7 and 17 are amended to depend from pending claims. Applicant respectfully traverses these rejections.

Applicants assert that the teaching or suggestion to combine the teaching of restoring data in a network with a plurality of clients of Dunham and the LAN-free, server-free SAN backup of Gamradt can only be found in the Applicant's disclosure. It is "impermissible to use the claims as a frame and the prior art references as a mosaic to piece together a facsimile of the claimed invention." *Uniroyal v. Rudkin-Wiley*, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988) (citing *W. L. Gore & Associates v. Garlock, Inc.*, 220 USPQ 303, 312). Absent a teaching or suggestion to combine in Dunham and Gamradt, Applicants assert that claims 7 and 17 cannot be unpatentable over Dunham in view of Gamradt and are allowable. Applicants further submit that claims 7 and 17 are allowable as depending from allowable claims.

As a result of the presented remarks, Applicants assert that claims 1-3, 5-13, and 15-20 are in condition for prompt allowance. Should additional information be required regarding the traversal of the rejections of the dependent claims enumerated above, Examiner is respectfully asked to notify Applicants of such need. If any impediments to the prompt allowance of the claims can be resolved by a telephone conversation, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

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